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Information received from non-governmental organizations

Note by the Secretariat

In its report on its fourth session, held from 16 to 27 May 2004, the Permanent Forum on Indigenous Issues identified proposals, objectives, recommendations and areas of possible future action and, recommended that States, organizations of the United Nations system and intergovernmental organizations, indigenous peoples and non-governmental organizations assist in their realization. Information received in this regard from non-governmental organizations is contained in the present note and addenda thereto.

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Redefining the Millennium Development Goals: indigenous peoples and international financial institutions

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1. In her paper entitled "Indigenous peoples and the Millennium Development Goals", the Chair of the Permanent Forum on Indigenous Issues set out compelling reasons for redefining the Millennium Development Goals in the case of indigenous peoples (E/C.19/2005/4/Add.13). She observed that a human rights-based approach to the Goals is essential and that for indigenous peoples it is difficult to talk about development without also addressing rights to lands and resources, identity and culture, and self-determination. She also highlighted the importance of moving beyond mitigation measures to providing concerted support for the development choices of indigenous peoples, if pursuit of the Goals is to benefit, rather than prejudice, indigenous peoples.

2. Development, including meeting the Goals, has a strong human rights component, as is affirmed in the Vienna Declaration and Programme of Action, which stresses that while development facilitates the enjoyment of all human rights, the lack of development may not be invoked to justify the abridgement of internationally recognized human rights. The jurisprudence of the United Nations and regional human rights treaty bodies also emphasizes that principle, and the United Nations Millennium Declaration states that no effort will be spared to achieve respect for all internationally recognized human rights. Respect for the rights of indigenous peoples should therefore be fundamental to pursuing the Goals.

3. In order to adequately redefine the Goals as they relate to indigenous peoples, the role, policies and practices of international financial institutions also must be addressed. International financial institutions include such multilateral bodies as the World Bank Group, the International Monetary Fund, regional development banks, United Nations programmes and funds, bilateral donor agencies and national export credit agencies, and private commercial banks. International financial institutions provide a large proportion of the funding for projects aimed at achieving the Goals or that otherwise affect their achievement and some promote far-reaching policy and sectoral loans that often have profound consequences for indigenous peoples. International financial institutions also influence the design of national structural adjustment programmes, fiscal and macroeconomic policies and trade and investment policies of borrower countries.

4. Attention to international financial institutions is also critical as many of them have recently revised or are presently revising their policies on indigenous peoples. There is an emerging global shift at the policy level concerning how the institutions view indigenous peoples in their activities. Some of these institutions are members of the United Nations system and the Inter-Agency Support Group on Indigenous Issues. It is critically important that the Permanent Forum on Indigenous Issues and indigenous peoples actively participate in these policy revisions to ensure that the implementation of the policies will be consistent with the rights and perspectives of indigenous peoples.

5. International financial institutions that have revised or are presently revising policies include the World Bank, the Asian and Inter-American Development Banks and the International Finance Corporation (IFC). For the most part, these policies fall below international human rights standards applying to indigenous peoples. In the case of certain loans, particularly technical assistance, sectoral and structural adjustment loans, there are no specific guarantees applicable to indigenous peoples. Institutions without a formal operational policy on indigenous peoples include the International Monetary Fund, the Global Environment Facility, the African Development Bank, most bilateral donors and export credit agencies, and a number of large commercial banks.

6. The revision of the IFC policies has ramifications that extend far beyond the operations of IFC itself. These policies may soon be adopted by around 40 large commercial banks that have subscribed to the Equator Principles.[1] These banks provide an estimated 80 per cent (US$ 125 billion) of private sector international project finance. Further, export credit agencies are increasingly relying on IFC policies. Therefore, as IFC revises its own policies, it is in effect undertaking a global standard-setting exercise affecting environmental and social issues in the majority of privately financed foreign direct investment projects.

7. International financial institution projects and sectoral loans often have serious negative impacts on indigenous peoples rights. This has been recognized by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, who observed that in numerous instances the rights and needs of indigenous peoples are disregarded, making this one of the major human rights problems faced by them in recent decades. The Special Rapporteur on indigenous peoples' permanent sovereignty over natural resources reached the same conclusion, as have the World Bank studies, which found that indigenous peoples have often been on the losing end of the development process.

8. These negative impacts are not necessarily avoided or effectively mitigated simply because an international financial institution has a policy on indigenous peoples, especially where these policies lack effective safeguards for rights to traditional territories and free, prior and informed consent. The Chair of the Permanent Forum on Indigenous Issues explained that protection and mitigation of the adverse impacts of development were not enough for indigenous peoples who had not sought such projects in the first place.

Recommendations

9. We urge the Permanent Forum on Indigenous Issues to make the following recommendations:

- **That the Permanent Forum on Indigenous Issues initiate or intensify its dialogue with international financial institutions about their policies and activities to underscore the fundamental importance of respecting indigenous peoples rights to lands, territories and resources and to free, prior and informed consent in relation to development-related activities. This includes looking into sectoral, structural adjustment and technical assistance loans, and how these impact on indigenous peoples;**

[1] See http://www.equator-principles.com.

- That the Secretariat of the Permanent Forum on Indigenous Issues request and collate information from international financial institutions on their policies and projects affecting indigenous peoples and undertake in-depth case studies of projects financed by international financial institutions to identify norms and best practices on how development projects can effectively uphold indigenous peoples rights and strengthen the development choices of indigenous peoples;

- As a follow-up to the January 2005 Permanent Forum on Indigenous Issues workshop on free, prior and informed consent, that the Forum draft a decision for adoption by the Economic and Social Council authorizing a workshop to elaborate indicators on free, prior and informed consent and other pertinent issues, including as they relate to international financial institutions;

- That the Permanent Forum on Indigenous Issues meet with IFC, with the aim of assisting it to develop implementation guides and principles that will apply to putting its new policies into operation;

- That the Permanent Forum on Indigenous Issues request information from the World Bank and IFC on the implementation of their policies and that the Forum meets with the Board of Executive Directors and the management of the World Bank in relation to the three-year review of Operational Policy 4.10 and implementation of the new IFC policy;

- That the Permanent Forum on Indigenous Issues recommend that the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, in collaboration with other rapporteurs and experts of the Forum, prepare a report on indigenous peoples rights and development and international financial institutions;

- That the Permanent Forum on Indigenous Issues act on the November 2005 invitation of a number of the Equator banks to begin a dialogue on indigenous peoples issues, especially in relation to their adoption and implementation of the new IFC policy framework, and that the Forum convene, before its next session, a seminar with indigenous peoples and Equator banks representatives;

- That the Permanent Forum on Indigenous Issues communicate with the Organization for Economic Cooperation and Development's Export Credit Division and its working party on Export Credits and Credit Guarantees, with a view to ensuring that adequate and effective policies are in place to safeguard the rights and interests of indigenous peoples affected by activities financed by export credit agencies;

- That the Permanent Forum on Indigenous Issues become involved with the ongoing formulation and review of the policies of the Inter-American and Asia Development Banks on indigenous peoples and encourage the African Development Bank to draw upon the work of the African Commission on Human and Peoples' Rights Working Group on Indigenous Peoples and, in collaboration with African indigenous peoples, discuss the development of an operational policy on indigenous peoples;

- **That the Permanent Forum on Indigenous Issues recommend that the Committee on Economic, Social and Cultural Rights develop and adopt, with the participation of indigenous peoples, a general comment on indigenous peoples that includes treatment of issues related to international financial institutions and the Millennium Development Goals;**

- **That the Permanent Forum on Indigenous Issues help ensure the participation of indigenous peoples in poverty, environmental, human rights and social impact assessment studies being undertaken by the international financial institutions and non-governmental organizations on their policies, programmes and projects.**